

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05CV167

ERIC M. MUNGO, SR., )  
Plaintiff, )  
 )  
v. )  
 )  
CONSOLIDATED METCO, INC., )  
Defendant. )  
 )

ORDER AND NOTICE TO PRO SE  
PLAINTIFF OF DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT

**THIS MATTER** is before the Court on its own motion following the filing of the “Defendants’ Motion for Summary Judgment” (Doc. No. 29) and “Memorandum in Support ... ” (Doc. No. 30), both filed April 3, 2006.

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises the plaintiff, who is proceeding *pro se*, of the heavy burden that he carries in responding to the defendant's Motion for Summary Judgment.

Rule 56(e), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

This language means that if the plaintiff has any evidence to offer to show that there is a genuine issue for trial, he must now present it to this Court in a form which would otherwise be admissible at trial, i.e., in the form of affidavits or unsworn declarations. An affidavit is a written statement under oath; that is, a statement prepared in writing and sworn before a notary public. An unsworn statement, made and signed under the penalty of perjury, may also be submitted. Affidavits or

statements must be presented by the plaintiff to this Court no later than April 28, 2006, and must be filed in duplicate. As stated by Rule 56(e), the plaintiff's failure to respond may result in the defendant being granted the relief it seeks by way of summary judgment, that is, the dismissal of the Complaint with prejudice. Copies of the defendant's Motion for Summary Judgment (Doc. No. 29) and Supporting Memorandum (Doc. No. 30) are available through the Courts CM-ECF electronic filing system.

**NOW THEREFORE, IT IS ORDERED:**

1. The *pro se* Plaintiff shall have until August 25, 2006, to file his response, including any evidence, to Defendant's Motion for Summary Judgment.
2. The Clerk is directed to send copies of this Order and Notice to counsel for the defendant; and to the *pro se* Plaintiff, that is, Eric Mungo, 310 N. Thompson Street Monroe, NC 28112.

Signed: August 3, 2006

  
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Robert J. Conrad, Jr.  
Chief United States District Judge  
